

MINUTES

RANDOLPH COUNTY PLANNING BOARD

September 20, 2005

The Randolph County Planning Board met in special session at 6:30 p.m., on Tuesday, September 20, 2005, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Acting Chairman Lynden Craven** called to order the Randolph County Planning Board meeting at 6:30 p.m.
2. **Hal Johnson**, Planning Director, called roll of the members: Maxton McDowell, Chairman, absent; Bill Dorsett, Vice Chairman, absent; Lynden Craven, present; Larry Brown, absent; Phil Ridge, present; Chris McLeod, present; Jim Rains, absent; and Reid Pell, Alternate, present. County Attorney Alan Pugh was present for this meeting.
3. **Johnson** announced that McLeod was running a few minutes late, but would be present for the meeting. Pugh said the members of the Planning Board had been briefed on the proposed plan and this meeting was another opportunity to give members of the public information about the plan and the opportunity to express their views. Pugh added that McLeod had been briefed on and is familiar with the plan.
4. **Johnson** explained that the Planning Board is an advisory board to the Board of Commissioners, and they will make a recommendation of whether to adopt this plan and any amendments to the County's Land Use Regulations to implement the plan. The County Board of Commissioners will consider adoption of the plan on October 3, 2005, after a 6:30 p.m. at public meeting.
5. **Background Summary**

Johnson explained that on June 6, 2005, the Board of Commissioners asked the Planning staff to study current county zoning/growth management regulations to determine if these regulations were adequate in the environmentally sensitive area of southern Randolph County known as the Birkhead Wilderness/Uwharrie Forest. The Commissioners also requested that the Planning staff hold a special Community Information Meeting to solicit comments from property owners within the study area. Johnson described the study area as that area that includes those properties that lie within the borders of High Pine Church Road, Lassiter Mill Road, and the Betty McGee Creek. Johnson said this area includes approximately 20 square miles and 212 individual property owners. The total study area includes 12,936 acres with 5,547 acres (43%) owned by the U.S. Government and 7,389

acres (57%) is under private ownership. Johnson said the average parcel size within this area is 36.50 acres.

Current County Zoning/Growth Management Standards. In 2002, the County Commissioners adopted a new Growth Management Plan that placed rural areas of Randolph County into growth corridors classified as Rural Growth Areas. The minimum low density lot size established for new residential subdivisions was 3 acres. A provision for open space/cluster subdivisions was also designed for the Rural Growth Areas, requiring 50% of the land within a new subdivision to be maintained as open space (while still not exceeding the base density allowed with 3-acre lots).

Johnson said the County received an application for a residential subdivision on High Pine Church Road that would have included 54 lots on 327 acres. There were numerous concerns expressed at the public meetings relative to density and compatibility with the National Forest and Wilderness Area.

Pugh asked that the record reflect that **McLeod** has joined the meeting at this point.

Johnson said after review of the area, the Planning staff determined the focus study area should include those properties that lie within the High Pine Church Road, Lassiter Mill Road, and Betty McGee Creek.

Planning Department Recommendation. Johnson stated the staff felt that to maintain the rural/low density character of this community, the only recommendation that could be made that would exceed what the County already has in place is to increase the minimum lot size in subdivisions. Johnson said a new lot size of ten (10) acres is proposed. Three new types of subdivisions to be called *Natural Heritage Subdivisions (Overlay District)*, *Natural Heritage Cluster Subdivision (Overlay District)*, and a *Family Subdivision* are being proposed. Johnson said the new Family Subdivision is designed to provide greater flexibility for a long-time property owner to divide land among immediate family members to continue in the community's heritage of rural family lands.

Community Information Meeting. On August 25, 2005, the Planning staff held an informal Community Information Meeting at the County Office Building. There were over 200 property owners within the study area and each was invited to attend this meeting to make comments and suggestions over the proposal. Johnson said approximately 60 land owners attended the meeting and each was given a copy of the draft plan. Johnson said most supported the concept of low density development that would be based on one residence per ten (10) acres within the study area. Johnson said they understood that, if approved, new developments that met these standards could be expected in this area. There was also much support expressed for the new special *Family Subdivision* rules being proposed for this area. However, several citizens felt these rules

needed to be better defined so as not to allow abuse.

Johnson said the Planning Board is reviewing these proposals and will receive comments from the public. Johnson said the three (3) different subdivisions are being proposed to maintain the intent of the development to be expected in this area. Johnson said we also want to provide flexible regulations for families. Johnson said in addition major residential subdivisions would require 100 ft natural buffer along all existing state roads and each lot would be restricted against further subdivision.

Johnson said this has been an overview of the proposed regulations. Johnson said he is unaware of any county that has this low density for specific areas.

6. **Public Comment**

Pugh said that at this time the public may make comments or ask any questions concerning the proposed plan. **Craven** opened the floor for public comments.

Jon Megerian, Attorney representing opposing area residents, said that overall they support these regulations. Megerian said his clients would like to see less density but are satisfied with this plan. Megerian said what this Board and the Commissioners did was to deal with a specific request on property in this region. Megerians said it was denied by this Board due to compatibility to the area. Megerian said they were not here on a specific request. Megerian said the nature of this area is not very different from the area of that request. Megerian said that within this area the average tract size is 36 acres. Megerian said the smallest subdivision average lot size in this area is 9+ acres. Megerian said the size of the developed lots makes this area very unique because the major residential subdivisions themselves don't go below 9+ acres in lot size. Megerian said that this area needs to be preserved and the Commissioners have charged the Planning staff to continue the low density development in this unique area. Megerian said there are people here that would like to see 20 acre minimum tract size, but that they understand that this is not reasonable. Megerian said Johnson and his staff has designed a compromise between two basic opinions. Megerian said he felt this plan was a good job in trying to reach this compromise. Megerian said that if both sides realize that they would like to see more of their views but they can live with the proposed regulations, then it is a good proposal. Megerian said he felt this compromise tried to take both views into consideration. Megerian said they had rather have 20-acre minimum lot sizes but they realize that it is not possible. Megerian said they had provided dozens of pictures of the scenic byways, and the natural heritage corridors in this area. Megerian said they would like to see more specific land development regulations to recognize and protect these things. Megerian told the Board that they would be following the County's Growth Management Plan by approving this proposal. Megerian said his clients realized that what has been done will not prevent growth. Megerian said they are willing to live with this compromise. Megerian said development in this area needs to be regulated in the way that is being proposed. Megerian said that the proposed development with an

average lot size of 5 acres was incompatible with this community. Megerian noted that this Board recommended it be denied by a vote of 5 to 1. Megerian said if the proposal is adopted it will intensify the development in this area. Megerian said they realize this and are willing to live with it. Megerian asked for the opportunity to respond if the opposition says something he feels needs a response. **Pugh** asked Megerian his legal view of the family subdivision proposal and if it would be legally sustainable. **Megerian** said it appeared to be an exception that he has not seen anything like. Megerian said he felt it was a rational restriction and is designed in such a way that it is not a problem. Megerian said all we have to have is a rational relationship and is not discriminatory. **Pugh** asked Megerian other than density, what other tools did he feel could be used to forward the goal of trying to preserve the character of the area. **Megerian** said the buffers are nice but it is necessary to consider density. Megerian said that buffers can only create a facade, because it would still create a great amount of traffic, etc. Megerian said density controlled through lot sizes considers the real issues, where buffers merely protect the looks of a roadway. **Pugh** discussed the Blue Ridge Parkway and the fact that the Federal Government did protect this area by buffers only. **Megerian** said that the Blue Ridge Parkway merely protects the views from the roadway and is mostly a cosmetic solution and not a real solution. **Pugh** asked if his clients were aware that in any ordinance there are policies but there must be some standards to implement those policies. **Pugh** said that the moratorium was set because the development met the standards, but wasn't necessarily compatible to the area. **Megerian** said that when Conditional Use zoning is being considered, it doesn't mean you only consider the single issue of density for approval. Megerian said that you are entitled to require other standards than just density when approving or denying Conditional Use permits.

There were 39 people present in favor of the proposed Birkhead Wilderness/Uwharrie Forest Small Area Plan..

A question came from the audience asking if they could ask Megerian questions. **Craven** answered this is a public meeting for expressing opinions to the Board, not other audience members.

Dr. Robert Scott, 2097 Fiddlers Creek Road, Asheboro, said that the Board gave a negative opinion about the Tucker rezoning request and something needed to happen. Scott thanked the Planning staff for their input. Scott said that there are some people present opposed to this plan because they don't feel the proposal is strong enough. Scott said that there is a large group that has been involved in this process. Scott said he felt the family subdivisions would be a good thing. Scott said he did question the 1-acre lot sizes being permitted on the road in family subdivisions. Scott said that the average density in his immediate area is 15 acres per residence. Scott said large tracts are consistent with the area. Scott mentioned the schools and the problems they are dealing with in the northeast area of the County. Scott said if higher density is permitted in this area, this would become a problem for the Southwest High School area also. Scott said that the new rules would allow the Tucker development request to cut their proposed

roads from 15,000 ft. to 8,000 ft. Scott said that the frontage and driveway lengths are two changes that are positive to the developers. Scott said that Dr. Jones discussed tourism at the last meeting, and he agreed that this should be taken into consideration. Scott said that he would like to see any Federally designated wetlands be protected by buffers. Scott said that they felt the Growth Management Plan was a minimum place to start planning development in the County. Scott said it is a framework to be built upon. Scott said that he feels that taking this step is a step in the right direction. Scott read many Growth Management Policies he felt supported this proposed plan.

- Policy 1.2** The benefits of economic development should be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents.
- Policy 1.3** The continued growth of Randolph County's heritage tourism industry will be encouraged.
- Policy 1.5** Randolph County will support coordination of economic development resources with various local agencies and seek regional coordination and interaction between areas with a shared economic interest.
- Policy 2.5** The planning of any proposed water and sewer pipeline loops being extended into the county should be coordinated so that they can best serve the total developed area including neighborhoods, schools and industry.
- Policy 6.16** The County should preserve scenic views and elements of the county's rural character by minimizing perceived density by minimizing views of new development from existing roads through use of natural buffers and open space.
- Policy 7.11** The County should cooperate with surrounding jurisdictions in joint efforts to link the preservation of open space.
- Policy 7.12** The County should clearly define land areas that are appropriate for development, as well as defined areas of environmentally sensitive, natural, or heritage asset land areas that need special protection.

Scott said that he felt these Growth Management Policies speak toward the goals of this proposal.

Ronald McKague, 605 East Cooksey Drive, Thomasville, said that he owns a large estate and is also in control of several other hundred acres in this area. McKague said he didn't have any problem with the 10 acres personally, but he did have some concern of those families that have purchased land within the last 10 years and may be restricted.

McKague said if his children or grandchildren wanted to be permitted to build on his property, they may have a problem with the 10 acre minimum tract size. McKague said that he is in modular home business and most of the lots developed today are selling at \$30,000 to \$40,000 per acre. McKague said he would be concerned that this could cause problems with the banks and underwriters. McKague said that he didn't have any intent of developing a subdivision in this area, but he is concerned for some of the people in this area. McKague said he is concerned for the people who have smaller tracts. McKague said he owns 200+ acres that he has owned for 15-20 years and has received smaller tracts from family members in the past. McKague said that he would probably be upset if he was required to cut 10 acres out for his children. McKague said he felt the thought is great, but some people may see this as taking property without proper compensation. McKague said this is one of the issues that this Board will need to consider. McKague said he works with zoning in Davidson County and he is concerned about possible spot zoning. McKague expressed concern for the County tax base also. McKague said he felt the Board and staff have done a fabulous job. **Pugh** told McKague that the family subdivision is an attempt to deal with these issues and asked if he had seen the proposal. **McKague** said he hasn't seen the latest version of the plan. **Pugh** said that it does speak toward the lot sizes for family subdivision lots. **Pugh** asked if he felt in general this is a good plan. **McKague** said that his main concern is for small landowners but he is generally in support.

William Moffitt, Jr., 2720 Voncannon Farm Road, said that he has been involved with this process from the beginning. Moffitt said he is a lifetime resident and owns 340+ acres on High Pine Church Road. Moffitt said he is also a residential building contractor, developer and a farmer. Moffitt said not everyone is going to be happy with any plan. Moffitt said he would like to see larger tracts, but he understands that not everyone can afford 20 acres. Moffitt said he felt this is a good proposal and he would hate it if the County didn't take this opportunity. Moffitt said that this is a unique area and if we lose it, it is gone forever. Moffitt said he feels this proposal is a middle ground that will allow development to continue at a responsible rate. Moffitt said he is impressed with the family subdivisions being proposed. Moffitt said if we don't help the families a lot of people will not be able to give to and provide for their children. Moffitt said that the majority of the people in this area are in favor of this proposal.

Tom Wright, Lawyer representing Terry Tucker, 301 Fallingwood Lane, Greensboro, said his client is a resident within the area. Tucker owns the property that was the subject of the rezoning request. Wright said he is not here to argue the rezoning request, but he is here to speak toward these changes. Wright asked if we need any adjustment to recognize any rural character in the Uwharrie Forest Area. Wright recognized that the County has adopted the Growth Management Plan of 2002, but said no one seems to follow it. Wright said that the ordinances that were adopted at that time provided for 3-acre minimum lot sizes. Wright said the Growth Management Plan speaks toward the fact that the Uwharrie National Forest was considered when that plan and regulations were adopted by saying . . . ***Policies recommended in the Growth Management Plan are***

developed based upon general recommendations of the Natural Heritage Task Force and the completion of Randolph County's first Natural Heritage Inventory in 1999.

Wright said the standards didn't ignore the Uwharrie National Forest, and it was taken into account. Wright said what is happening here is that the very first subdivision presented in this area since the adoption of the Growth Management Plan was turned down by the Planning Board and was not approved by the Commissioners even though the subdivision was found to meet the standards. Wright said the neighbors are pleased with the proposed plan because they will be kept from being affected because they are going to be grandfathered in. Wright said this proposal is to try to scuttle the proposal made by Terry Tucker. Wright said this solely targets Tucker and his request. Wright said this "so called" Small Area Plan doesn't really do what the Commissioners asked the Planning staff to do. Wright said the Commissioners imposed a moratorium on subdivisions proposed within the entire Uwharrie National Forest for the staff to address the area of concern. Wright said the target area was not the yellow area presented on the proposed map, but the yellow area plus the green area on this map. Wright asked why one side of the road permits 10 acres because it is scenic but the other side of the street allows smaller lots. Wright asked if it wouldn't make sense that the requirements be for all of the Uwharrie Forest. Wright said that he asked the staff at the Community Information Meeting how many lots were less than 10 acres and how many lots were greater in the entire Uwharrie Forest area, and the staff couldn't answer the question Wright said if you are going to allow houses to be built anywhere, that area is no longer rural. Wright asked why 10 acres instead of 3 acres. Wright said that Johnson said there is no place with 10-acre minimum lot sizes and he is correct. Wright said the only county with a National Forest even close to these regulations is Burke County, and its largest lot sizes are 5-acre estate lots and 3.5-acre rural lots. Wright said that even in Chapel Hill they don't have an ordinance with density as high as 10 acres. Wright said nowhere in North Carolina is there such density. Wright said 5 acres has been the maximum heretofore. Wright said when increasing to 10 acres it is not a compromise. Wright said there is no particular reason to say this is a worthwhile governmental policy. **Pugh** asked Wright if Guilford County had any type of density restrictions, and **Wright** answered there are watershed tiered areas, and the maximum would be 5-acre minimum lot sizes in Guilford County. **Pugh** said there is a distinction between a wilderness area and a national forest and **Wright** agreed. **Pugh** said that national forest areas do allow some kind of timbering. **Wright** said that national forest regulations were all he could find. Wright said there were no wilderness areas to compare. **Pugh** asked if this was radical to a wilderness area and **Wright** said he didn't find any regulations to compare and Randolph County would be the first. **Pugh** said a wilderness area draws people, hikers, etc, that a national forest would not necessarily attract, and **Wright** agreed that there is a distinction with different uses. Wright said that he didn't feel this area is consistent with what the Commissioners charged the Planning staff. Wright said Pugh would be right if the charge was written that way. Wright said he didn't feel the Board would apply these same regulations to the entire Uwharrie Forest. Wright said he was talking about property values and this could be a restriction on property values. Wright said that property owners will not get the same value for their property if they sell 10-acre tracts

versus 1-acre tracts. Wright said these may be nest eggs for property owners or their children. **Pugh** said he understands that large acreage tracts are valued acre to acre less, but asked is there not any way a counter market is established when it is exactly what a person wants. **Wright** said yes, but a 200-acre tract developed in 5-acres lots versus 10-acre lots, the 5-acre tract subdivision would be more valuable. Wright said they felt a 5-acre tract would be plenty. Wright said 10 acres is excessive. Wright said the 5 acres would be as large as anywhere in the state. Wright asked if they wanted this area to be accessible to only the wealthy. Wright asked if the family subdivision would defeat the idea of large-acreage tracts. Wright said the family subdivision wouldn't apply to all family members like brothers, sisters, cousins, etc. Wright said he could foresee a family being restricted. Wright said if the family subdivisions would preserve the rural character of the area, then why not extend it to other people. Wright said he could say a lot more, but he hoped that just from a standpoint of legislative policy that the Board would consider what they are doing here. Wright said this might not be the way to preserve rural character. Wright said that 5 acres is used as a minimum lot size in other areas of the state. **Pugh** said we have a Wilderness Area here and it is unique and different from a National Forest. Pugh said the County is genuinely trying to protect this Wilderness Area of the National Forest. Pugh asked Wright if he knew any other tools to achieve these goals. **Wright** said that he did believe density is the way to address this issue. Wright said that the County could adopt polices on buffers and timbering, and he felt the provision providing for mixed lot sizes is a good one. Wright said that some density requirements such as 5 acres would achieve this goal. Wright said that they should require adequate buffers on each lot. **Pugh** asked Wright if he thought family subdivision should include siblings or did he think the proposal was ridiculous. Wright said not ridiculous but if the County allows a family member 1-acre lots and everyone else 10 acres, this could be a problem. Wright said that 5 acres could achieve the Board's goals without a provision for a family subdivision.

Jim Young, 4252 High Pine Church Road, said that he felt a landowner should be able to do whatever he wants on his land. Young said if the County placed these regulations on the land, then allowed a Board to continually make changes, they will create more regulations. Young said that these regulations will leave a lot of people "hanging out to dry." Young asked who wants a 5-acre tract that he can't do anything with. Young said it sounds good up front, but he felt this is a half-baked plan. Young said that their land was for sale for 6 years and now the buyer can't develop it. Young said that the Board didn't do their job. Young said the Board's word is worthless. Young said it is a sad thing when an ordinance is set up and then a businessman exceeds those plans and then the Board cuts his throat.

Megerian said the folks here in support of this plan would prefer that the property not be rezoned and allow it to remain zoned RA. Megerian said we have public meetings are held to allow the ordinances to change as is allowed in this Country. Megerian said this is not Socialism or Communism. Megerian said that this Board is doing what is permitted to do under our law. Megerian said they realize that changes have to come but

it should be done responsibly. Megerian said this is their second choice. Megerian said a reasonable democratic job has been proposed and should be approved.

Craven thanked those who came and closed the public input portion of this meeting to allow the Board to discuss the matter before them.

7. **Board Discussion**

Craven said that he realized, after sitting on this Board for 18+ years, there have been many changes. Craven said that in 1987 he went before the Commissioners to ask for countywide zoning for the landowners' protection. Craven said if we had not had zoning all these years no one would recognize Randolph County today. Craven said he realized those on High Pine Church Road didn't want to see change but this does happen. Craven said there has to be change but growth should be permitted responsibly.

McLeod said he worries that if these restrictions are placed on this property they will be there for generations upon generation. McLeod said it could be far worse than what we currently have now.

Ridge said his concerns would be what really sets this area apart from other areas of the County. Ridge said it isn't something he would want to see in all areas of the County. Ridge said if there is an area that warrants this restriction, then the Board should consider this proposal. Ridge asked Johnson to explain why this area warrants these regulations. **Johnson** said that the issue here is density and the Planning Board can recall that it did set the rural growth lot size at 5 acres (in 2002) and it was reduced to 3 acres before approval by the Commissioners. Johnson said it is his opinion that the Birkhead Wilderness area was the area that the Commissioners asked him to study. Johnson said that the Planning staff has tried to look at an area that could be defined. Johnson said that they didn't single out any particular property owner. Johnson said that density is an issue that will be discussed years from now.

McLeod said he felt density could be controlled by buffers. McLeod said that 90% of the subdivisions this Board sees is not 1-acre lot sizes.

Pugh said there is a uniqueness and distinction of a Wilderness Areas and a National Forest. Pugh said there are very few Federally Designated Wilderness areas. Pugh said a Wilderness Area is designed to be preserved in its natural state. Pugh said the Commissioners were interested in preserving this Wilderness Area because it is unique as an economic area and an economic benefit. Pugh said it is not being considered for protection because of the visual impact on the community, although that plays into it, but because of what is going on and what type of development goes on in a designated National Wilderness Area. **Ridge** asked if the area designated would fully protect that or would there be any addition to that area in the future. **Pugh** said that they have to draw a

line somewhere, and that is up to the elected Board who has asked your advice and your input. Pugh said that he has heard some of the arguments on drawing lines on a road and that argument could be answered by saying yes the area needs to be bigger. Pugh said to specifically answer Ridge's concern about someone requesting these regulations in another area of the county, the answer is that there is no other Wilderness Area in the county or in the Piedmont. **Ridge** said that is his concern, and this is very restrictive and should warrant possible restrictions.

Pell said Young talked about a 5-acre piece of land in this area. **Johnson** said that wouldn't impact an existing tract of land; it would be grandfathered.

McLeod said that he felt the family subdivisions could cause more lots in the future than what would be wanted. **Johnson** said that the intent of the family subdivision is not to provide loop holes. **McLeod** said that he didn't want to see any one handcuffed.

Pugh said that this can be advanced to the Commissioners without a recommendation but with Board comments, if the Board so chose.

Pugh advised that the Board had several options:

- **recommend the adoption of the plan
- **not recommend adoption
- **recommend or not recommend the plan due to the stated concerns, or
- **advance the plan to the Commissioners without a recommendation but with the stated comments.

Ridge said he would lean toward advancing the plan without a recommendation with the Board's concerns. Ridge made the motion to advance the plan without a recommendation with the following concerns:

1. The Board should carefully consider the designated area for the plan to be applied and why that area warrants these specialized regulations. The area should be thoroughly studied and focused in such a way so that it would not be expanded in the future.
2. The density level should be carefully considered. The 10-acre lot size may be too much and 6-acre lots or 7-acre lots may be more appropriate.
3. Family subdivision regulations should be established in such a way as to not allow for abuse.

McLeod seconded this motion.

Ridge said there are a lot of people present that live in the area that are supportive, but

there are some present that are not.

The motion passed unanimously.

8. The meeting adjourned at 8:52 p.m. There were 53 citizens present for this meeting.

**NORTH CAROLINA
RANDOLPH COUNTY**

HAL JOHNSON

Planning Director

JILL WOOD

Date

Clerk/Secretary